

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TERRANCE J.M. STOKES,)	
)	
Plaintiff,)	Civil Action No. 22-960
)	Magistrate Judge Maureen P. Kelly
v.)	
)	Re: ECF No. 46
PRITTS,)	
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff Terrance J.M. Stokes (“Plaintiff”), an inmate presently incarcerated at the James T. Vaughn Correctional Center in Delaware, brings this *pro se* civil rights action. Plaintiff’s claims arise out of allegations that Defendant Pritts (“Defendant”) used excessive force in violation of his Eighth Amendment rights while he was incarcerated at the State Correctional Institution at Somerset (“SCI-Somerset”). ECF No. 15.

Presently before the Court is Plaintiff’s Motion for Compelling Discovery (“Motion to Compel”). ECF No. 46. In support, Plaintiff argues that Defendant did not comply with the Court’s Order, ECF No. 44, directing Defendant to produce the following materials.

1. Any video footage of the incident described in Plaintiff’s Complaint, including any video of the incidents referred to above that took place in the “Cage ‘D’ Rec Pen” between approximately February 1, 2020 and March 2, 2020 and in the “rec yard” on March 20, 2020.
2. All incident reports, grievances and appeals therefrom, disciplinary reports, investigative reports or other similar documents in its/their possession concerning the alleged incident or incidents described in the Complaint.

In particular, Plaintiff argues that Defendant did not produce the video footage at issue, claiming he was “unable to locate” it. ECF No. 46 at ¶ 1. Plaintiff also asserts that Defendant has failed to produce Defendant’s disciplinary records. *Id.* ¶ 2. Based on this, Plaintiff requests that

the Court order a third-party investigator to investigate and retrieve the video footage that Defendant claims not to have. Id. ¶ 3.

Defendant has filed a Response in Opposition to the Motion to Compel. ECF No. 51. In response, Defendant represents that there are no available materials to produce. Defendant notes that the only video that was preserved corresponds to the date that Plaintiff originally claimed the incident occurred. Because SCI-Somerset's video recording system generally "tapes over" existing video footage within 30-60 days unless otherwise specifically retained and preserved, and the alleged incident occurred over three years ago, the video footage that Plaintiff seeks is no longer available. Id. ¶¶ 20-31. Defendant also asserts that he was not disciplined, so there are no disciplinary records to produce. Id. ¶¶ 32-34.


Based on counsel's representations to the Court, there are no available materials for the Court to compel. For this reason, the Court also denies Plaintiff's request for an investigation to be conducted regarding these materials. Accordingly, the Motion to Compel is denied. An appropriate Order follows.

AND NOW, this 31st day of May, 2023, IT IS HEREBY ORDERED that Plaintiff's Motion for Compelling Discovery, ECF No. 46, is DENIED.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110,

Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:


MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: Terrance J.M. Stokes
SBI # 00849514
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

All counsel of record via CM/ECF.